

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

SPENCER VALLEY ELEMENTARY  
SCHOOL DISTRICT,

OAH CASE No. 2014030842

SPENCER VALLEY ELEMENTARY  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE No. 2014030046

ORDER VACATING ALL DATES AND  
SCHEDULING PREHEARING  
CONFERENCE AND HEARING DUE  
TO WAIVER OF RESOLUTION  
SESSION

Spencer Valley Elementary School District filed a Request for Due Process Hearing on March 3, 2014, naming Student. On March 21, 2014, Student filed a complaint naming Spencer Valley. On March 27, 2014, the Office of Administrative Hearings consolidated these cases and ordered that Student's case governs the timeline for issuance of the decision.

On April 29, 2014, OAH issued an order granting Student's motion to amend Student's complaint. As a result, OAH issued a new scheduling order that set mediation on June 4, the prehearing conference on June 13, and the hearing to begin on June 24, 2014.

On May 9, 2014, Spencer Valley submitted a response to Student's amended complaint in the form of a letter to Student's attorney. In it, Spencer Valley stated it "is willing to waive the early resolution session. Kindly confirm in writing whether your client is also willing to waive the resolution session."

On May 12, 2014, Student filed a Notice of Waiver of Resolution Session and Request to Vacate June 4, 2014 Mediation. In it, Student accepted Spencer Valley's offer to waive the resolution session concerning Student's amended complaint and "[gives] notice that the [r]esolution [s]ession has thus been waived." Further, Student stated that prior mediation was not successful and requested that the June 4 mediation be vacated. Finally, Student requested that OAH "confirm the hearing date for June 24, 2014."

## APPLICABLE LAW AND DISCUSSION

A school district must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1), (2) (2007).)<sup>1</sup> This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (§ 300.510(a)(3)(i)), or if the parent and school district agree to use mediation instead of a resolution session (§ 300.510 (a)(3)(ii)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (300.510(c)(1).) However, the timeline does not change if the parties agree to use mediation instead of a resolution session. (§ 300.510(c).) When the parties agree in writing to waive a resolution session, OAH will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing.

In this case, Student and Spencer Valley agreed in writing to waive the resolution session concerning Student's amended complaint. As a result, the 45-day timeline for issuance of a decision begins on May 13, 2014.

In order to ensure that a decision will be issued within this timeline, in a case in which there is no resolution session, OAH generally schedules mediation 15 days and the hearing 25 days after the timeline begins, and the prehearing conference is scheduled five days before the hearing begins. In this case, adjusting the dates for the Memorial Day holiday, the mediation would be scheduled on May 28, the prehearing conference would be scheduled on May 30, and the hearing would begin on June 4, 2014.

Student indicated that prior mediation in this case was not successful and did not believe that further efforts were indicated. Accordingly, mediation will not be scheduled.

In addition, Student requested that the hearing begin as currently scheduled on June 24, 2014. The requested date is 42 days after the commencement of the time frame for issuance of a decision. Not counting the number of days on which the hearing would be

---

<sup>1</sup> All citations are to 34 Code of Federal Regulations part 300.510 (2007) unless otherwise indicated.

held, this would allow OAH a mere three days to issue a decision. As a result, Student's request to begin the hearing on June 24, 2014, is denied.

All dates are vacated and scheduled as follows:

Prehearing Conference    May 30, 2014, at 1:00 p.m.

Hearing                      June 4 and 5, 2014, at 9:30 a.m. first day,  
9:00 a.m. other days, and continuing day to  
day, Monday through Thursday, as needed at  
the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: May 12, 2014

/s/

---

JUDITH A. KOPEC  
Division Presiding Administrative Law Judge  
Office of Administrative Hearings